



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/158590

PRELIMINARY RECITALS

Pursuant to a petition filed June 24, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on July 23, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly established good cause existed for Petitioner's failure to cooperate with child support in establishing paternity.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Janell Roundtree
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was receiving BadgerCare+ coverage. The agency stopped Petitioner's BadgerCare+ coverage effective July 1, 2014 because Petitioner did not cooperate with child support in establishing paternity for her son.

3. Petitioner filed a request for fair hearing with the Division of Hearings and Appeals on June 21, 2014. In her request Petitioner stated that she had been a victim of domestic violence, and the child's father was charged criminally for a domestic violence incident while she was pregnant with this child. At the hearing Petitioner stated that she went into premature labor as a result of this domestic violence incident. Doctors were able to stop the labor, but her baby was still born early. She does not believe that establishing paternity is in her or her child's best interest given this history of violence.
4. Upon receiving her request for fair hearing the department sent Petitioner good cause paperwork to fill out. A good cause finding would allow Petitioner to receive BadgerCare+ coverage without establishing paternity.
5. At the time of the hearing Petitioner had not yet filled out the good cause paperwork.
6. Following the hearing Petitioner filled out the good cause paperwork. The agency processed that paperwork finding good cause.
7. Petitioner's benefits were continued and there was no gap in coverage.

DISCUSSION

BadgerCare Plus is a Wisconsin variant of the Medicaid program, for non-elderly, non-disabled Wisconsin residents. *BadgerCare Plus Eligibility Handbook (BEH)*, § 2.1. This program requires a person to cooperate in establishing the paternity of any child born out of wedlock for whom BC+ is requested or received. *BadgerCare Plus Eligibility Handbook (BEH)*, § 5.2.1. As part of cooperation, a person could be required to provide verbal or written information known to him or her, appear as a witness at hearings, provide information or attest to the lack of information under the penalty of perjury, pay to child support any court ordered medical support payments received directly from the absent parent, or attend office appointments or scheduled genetic tests. *Id.*

The only exception to this requirement that a person cooperate with the establishment of paternity is if there is good cause. *BadgerCare Plus Eligibility Handbook (BEH)*, § 5.3.1. Good cause consists of circumstances beyond a person's control that keep a person from following program requirements or specific eligibility conditions. *Id.* In determining good cause, the agency must look at whether cooperation is against the best interests of the child. *BadgerCare Plus Eligibility Handbook (BEH)*, § 5.3.4. The agency can look at court records, medical records, a person's statements, and additional evidence in making this good cause determination. *BadgerCare Plus Eligibility Handbook (BEH)*, § 5.3.5.

In this case the only issue was whether the agency properly sanctioned Petitioner for failing to cooperate with the child support request. Upon receiving Petitioner's request for fair hearing, the agency mailed Petitioner the good cause paperwork. Following the hearing Petitioner completed this paperwork. The agency then made a good cause finding, and there was no gap in Petitioner's BC+ coverage.

CONCLUSIONS OF LAW

Based upon the court documents submitted and Petitioner's testimony, I find that the agency correctly determined Petitioner had good cause for failing to cooperate with child support to establish paternity.

THEREFORE, it is

ORDERED

that the Petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 30th day of July, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 30, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability